



DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act, provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the ADDRESSES section of this notice. ICRs also are available at [reginfo.gov](http://www.reginfo.gov/public/do/PRAMain) (<http://www.reginfo.gov/public/do/PRAMain>).

DATES: Written comments must be submitted to the office shown in the **Addresses** section on or before [Insert date 60 days from publication].

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N- 5718, Washington, DC 20210, ebsa.opr@dol.gov, (202) 693-8410, FAX (202) 219-4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transaction exemptions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Benefit Plan Claims Procedure Under the Employee Retirement Income Security Act.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0053.

Affected Public: Not-for-profit institutions, Businesses or other for-profits.

Respondents: 5,808,427.

Responses: 311,790,227.

Estimated Total Burden Hours: 516,227.

Estimated Total Burden Cost (Operating and Maintenance): \$814,449,932.

Description: ERISA Section 503 and accompanying regulations at 29 CFR 2560.503-1 require employee benefit plans to establish procedures for resolving benefit claims under the plan, including initial claims and appeal of denied claims. The regulation requires specific information to be disclosed at different stages of the claims process. It also requires claims denial notices to

be provided within specific time- frames and to include specific information. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0053. The current approval is scheduled to expire on February 29, 2020.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Mental Health Parity and Addiction Equity Act of 2008 Notices.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0138.

Affected Public: Individuals or Households, Businesses or other for-profits, Not-for-profit institutions

Respondents: 1,217,876.

Responses: 1,217,876.

Estimated Total Burden Hours: 27,207.

Estimated Total Burden Cost (Operating and Maintenance): \$3,477,577.

Description: The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) was enacted on October 3, 2008, as sections 511 and 512 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Division C of Public Law 110-343). MHPAEA amends the Employee Retirement Income Security Act of 1974 (ERISA), the Public Health Service Act (PHS Act), and the Internal Revenue Code of 1986 (the Code). In 1996, Congress enacted MHPEA, which required parity in aggregate lifetime and annual dollar

limits for mental health benefits and medical and surgical benefits. Those mental health parity provisions were codified in section 712 of ERISA, section 2705 of the PHS Act, and section 9812 of the Code. The changes made by MHPAEA are codified in these same sections and consist of new requirements as well as amendments to several of the existing mental health parity provisions applicable to group health plans and health insurance coverage offered in connection with a group health plan.

MHPAEA and the interim final regulations do not apply to small employers who have between two and 50 employees. The changes made by MHPAEA are generally effective for plan years beginning after October 3, 2009. MHPAEA and the final regulations, codified at 29 CFR 2590.712(d), require plan administrators to disclose the criteria for medical necessity determinations with respect to mental health and substance use disorder benefits. These third-party disclosures are information collection requests for purposes of the Paperwork Reduction Act. In response to provisions of the Cures Act which requires the Departments of Labor (DOL), Health and Human Services, and the Treasury (collectively, the Departments), to provide a model form that participants, enrollees, or their authorized representatives could use to request information from their health plan or issuer regarding non-quantitative treatment limitations (NQTLs) that may affect their Mental Health (MH)/Substance Use Disorder (SUD) benefits, or to obtain documentation after an adverse benefit determination involving MH/SUD benefits to support an appeal. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0138. The current approval is scheduled to expire on March 31, 2020.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 1992-6: Sale of Individual Life Insurance or Annuity Contracts by a Plan.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0063.

Affected Public: Businesses or other for-profits.

Respondents: 10,877.

Responses: 10,877.

Estimated Total Burden Hours: 2,175.

Estimated Total Burden Cost (Operating and Maintenance): \$5,656.

Description: This class exemption exempts from the prohibited transaction provisions of ERISA, the sale of individual or annuity contracts by a plan to participants, relatives of participants, employers, any of whose employees are covered by the plan, other employee benefit plans, owner-employees, or shareholder-employees, for the cash surrender value of the contracts, provided certain conditions set forth in the exemption are met.

The Department has included in the class exemption a basic disclosure requirement. Pension plans are required to inform the insured participant of a proposed sale of a life insurance or annuity policy to the employer, a relative, another plan, an owner-employee, or a shareholder-employee. If the participant elects not to purchase the contract, the relative, the employer, another plan, the owner-employees, or the shareholder-employees may purchase the contract from the plan upon the receipt by the plan of written consent of the participant. The disclosure requirement of the class exemption does not apply if the contract is sold to the plan participant.

The Department has received approval from OMB for this ICR under OMB Control No. 1210-0063. The current approval is scheduled to expire on May 31, 2020.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Loans to Plan Participants and Beneficiaries Who Are Parties in Interest with Respect to the Plan Regulation.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0076.

Affected Public: Businesses or other for-profits, Not-for-profit institutions.

Respondents: 2,556.

Responses: 2,556.

Estimated Total Burden Hours: 0.

Estimated Total Burden Cost (Operating and Maintenance): \$1,023,678.

Description: Section 406(a)(1)(B) of ERISA prohibits the lending of money or other extensions of credit between a plan and a party in interest. A statutory exemption is provided in ERISA section 408(b)(1), which exempts plan loans made to participants and beneficiaries from the prohibited transaction provisions of sections 406(a), (b)(1), and (b)(2) of ERISA if the loans: (A) are made available to all participants and beneficiaries on a reasonably equivalent basis; (B) are not made available to highly compensated employees, officers, or shareholders in an amount greater than the amount made available to other employees; (C) are made in accordance with

specific provisions regarding such loans set forth in the plan; (D) bear a reasonable rate of interest; and (E) are adequately secured.

The Department's regulation at 29 CFR § 2550.408b-1(d) prescribes eight specific provisions that must be included in the plan documents, including: (1) an explicit authorization for the plan fiduciary responsible for investing plan assets to establish such a loan program; (2) the identity of the person or position authorized to administer the program; (3) a procedure for applying for loans; (4) the basis on which loans will be approved or denied; (5) limitations (if any) on the types and amounts of loans offered; (6) the procedure for determining a reasonable rate of interest; (7) types of collateral that may secure a participant loan; and (8) the events constituting default and the steps that will be taken to preserve plan assets in the event of such default. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0076. The current approval is scheduled to expire on May 31, 2020.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 1985-68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0094.

Affected Public: Not-for-profit institutions, Businesses or other for-profits.

Respondents: 69.

Responses: 325.

Estimated Total Burden Hours: 1.

Estimated Total Burden Cost (Operating and Maintenance): \$0.

Description: This class exemption describes the conditions under which a plan is permitted to acquire customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's business activity and thus be exempt from the prohibited transaction restrictions, provided that the conditions of the exemption are met. The class exemption covers sales as well as contributions of customer notes by an employer to its plan. The customer notes must have been accepted by the employer in its primary business activity as the seller of tangible personal property that is being financed by the notes, so that the exemption does not apply to notes of an employer's affiliate. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0094. The current approval is scheduled to expire on May 31, 2020.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Notice to Employees of Coverage Options under Fair Labor Standards Act Section 18B

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0149.

Affected Public: State, Local, and Tribal Governments.

Respondents: 7,521,900.

Responses: 29,165,840.

Estimated Total Burden Hours: 117,149.

Estimated Total Burden Cost (Operating and Maintenance): \$4,709,408.

Description: Section 18B of the Fair Labor Standards Act (FLSA), as added by section 1512 of the Affordable Care Act, generally provides that, in accordance with regulations promulgated by the Secretary of Labor, an applicable employer must provide each employee at the time of hiring (or with respect to current employees, not later than March 1, 2013), a written notice: (1) Informing the employee of the existence of Exchanges including a description of the services provided by the Exchanges, and the manner in which the employee may contact Exchanges to request assistance; (2) If the employer plan's share of the total allowed costs of benefits provided under the plan is less than 60 percent of such costs, that the employee may be eligible for a premium tax credit under section 36B of the Internal Revenue Code (the Code) if the employee purchases a qualified health plan through an Exchange; and (3) If the employee purchases a qualified health plan through an Exchange, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes. The model notice is being provided by the Department to facilitate compliance with FLSA section 18B. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0149. The current approval is scheduled to expire on May 31, 2020.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Default Investment Alternatives under Participant Directed Individual Account Plans

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0132.

Affected Public: Businesses or other for-profits, Not-for-profit institutions.

Respondents: 276,222.

Responses: 36,249,796.

Estimated Total Burden Hours: 191,640.

Estimated Total Burden Cost (Operating and Maintenance): \$9,959,269.

Description: The regulation offers guidance on the types of investment vehicles that plans may choose as their “qualified default investment alternative” (QDIA). A QDIA must either be managed by an investment manager, plan trustee, plan sponsor or a committee comprised primarily of employees of the plan sponsor that is a named fiduciary, or be an investment company registered under the Investment Company Act of 1940. The regulation also outlines two types of information collections. First, it implements the statutory requirement that plans provide annual notices to participants and beneficiaries whose account assets could be invested in a QDIA. Second, the regulation requires plans to pass any pertinent materials they receive from a QDIA to those participants and beneficiaries with assets invested in the QDIA as well to provide certain information on request. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0132. The current approval is scheduled to expire on June 30, 2020.

Dated: October 4, 2019.

Joseph S. Piacentini,

Director, Office of Policy and Research.

Employee Benefits Security Administration

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